

A nonprofit organization created to improve a public educational system is not exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 where it campaigns on behalf of candidates for election to the school board.

Advice has been requested whether a nonprofit organization created to improve a public educational system by engaging in campaigns on behalf of candidates for the school board may qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

Every four years when the school board is to be elected, the organization considers the qualifications of all candidates and selects those it determines to be best qualified. It then engages in a campaign on their behalf by publicly announcing its slate of candidates and by publishing and distributing a complete biography of each.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations which are organized and operated exclusively for educational purposes and which do not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(c)(3) of the Income Tax Regulations states that an organization is not operated exclusively for one or more exempt purposes described in section 501(c)(3) of the Code if it is an 'action' organization. An 'action' organization is defined to include an organization which participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. A candidate for a public office is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office.

A candidate for an elected position on a school board is a candidate for public office. Furthermore, the organization's activity in evaluating the qualifications of all potential candidates and then selecting and supporting a particular slate constitutes participation in a political campaign on behalf of particular candidates, even though its process of selection may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates. Therefore, the organization is not exempt from Federal income tax under section 501(c)(3) of the Code.